

The New Plan for Immigration: We need to talk about Albania

BRIEFING PAPER

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INTRODUCTION

This Briefing is critical of a number of aspects of the Government's proposals in the New Plan for Immigration regarding seeking asylum and refugee protection in the UK. But it is also critical of a number of aspects of the approach of the refugee rights sector. Among other things it argues that, by failing to engage with either the public's scepticism of asylum seekers, or the problem of what to do about failed asylum seekers, the refugee rights sector has completely ceded the ground in this area to the Government, and that the New Plan for Immigration is largely the result.

This will not be easy reading for many in the refugee rights sector. And many will likely disagree. But nor has this been easy to write. The author is a former trustee of Consonant (which was for a time the merged organisation housing Asylum Aid and the Migrants Resource Centre), as well as having volunteered at a number of organisations within the refugee and migrants' rights sector, including the International Refugee Rights Initiative, the European Council on Refugees and Exiles, Detention Action and the AIRE Centre. As such the author has many friends and connections within the refugee rights sector, and has nothing but respect and admiration for the tireless work they do to support the rights of refugees and migrants.

That the New Plan has engendered such deep emotions should be cause for some reflection on all sides. And pose the question: how did we get into this situation, and what can be done to push a reset button so that both sides of the debate can engage more productively on this most challenging and important of issues? If this Briefing triggers any such reflection, then it will have achieved something.

KEY POINTS

- For the refugee rights sector, the Government's New Plan for Immigration presages legal battles to come, as the Government prepares to test the legal boundaries of the UN Refugee Convention. But it also presents an even more fundamental challenge, since the messaging of the New Plan is designed to exploit public perceptions and opinions on asylum which the sector has over many years failed to address, or often even engage with.
- The New Plan represents a significant change of approach in the Government's messaging around the problems of immigration control. The UK's inability to remove tens of thousands of failed asylum seekers is at the core of the Government's thinking and messaging around the New Plan. This should disabuse the refugee rights sector of any belief that the question of the return of failed asylum seekers is simply the Home Office's problem. It is a problem that also impacts on refugees and the refugee rights sector.
- Even before the explicit two-tiered approach of the New Plan's proposals, not all asylum claims in the UK have been considered equal, if the country from which the claimant originates is considered by the UK to be 'safe'.
- One such country is Albania, which has recently been the source of an increasing share of asylum claimants in the UK – currently ranking 2nd. The New Plan does not mention Albania. But it should, because the varied migration stories from Albania provide a microcosm of the blurred lines and complexities the UK's asylum system has to deal with, and the problems of failed asylum seekers which the system generates.
- Although designated by the UK as 'safe', the UK has in fact recognised a number of refugees arriving from Albania. But Albania has also generated numbers of economic migrants coming to the UK claiming to be refugees, and also some who have become engaged in serious organised criminality in the UK.
- The challenges of the Albanian situation are the reason that sensible reform of the asylum system is clearly needed. But it is also an indication of how difficult such reform actually is, and a significant hurdle to actually achieving such reform. Every shade of opinion on the asylum issue can find its own corroborative story somewhere among the different aspects of migration from Albania. Each side sees the story it wants to see, ignores the other stories, and fails to address the reality of a complicated and messy picture.
- The thorny issue of what to do about failed asylum seekers is a core problem which the Home Office and the refugee rights sector *should* see a common interest in resolving. Without this common approach, an asylum system which politicians, public and refugee rights sector can all stand behind seems unachievable. But the legalistic approach, adversarial nature and confrontational design of the UK asylum system fuels and accentuates each side's polarised perspective, closing down spaces where productive, common ground can be identified and built on.

- However, even in the most recent, fractured of times there have been pockets of open and innovative collaboration between the Home Office and representatives of the refugee rights sector. And on the issue of failed asylum seekers, the two sides have in fact cooperated and collaborated not so long ago.
- From 2011-2015 control of the Assisted Voluntary Return (AVR) programme in the UK was handed by the Home Office to Refugee Action, a leading refugee rights organisation. This encouraged unsuccessful asylum claimants to engage with the programme and consider returning home, because they had trust that they were getting reliable information, impartially presented, before having to commit to voluntary return home. When the Home Office took back control of the programme in 2015, this trust declined, and the numbers of people returning through this route have since fallen steeply.
- This could – and should – be reversed. If the Home Office chose to re-engage with the sector over the AVR programme, the existing practical knowledge and experience within the UK could be leveraged to achieve a much more energised, expanded and effective outcome; increased returns, but also improved welfare of those returning, and increased public confidence in the outcomes.
- Even more fundamentally though, the very existence of an AVR programme designed to require the Home Office and the refugee rights sector to work together can provide powerful opportunities that would not otherwise arise. Such co-operation has the potential to better address one of the most complex challenges of the asylum system in a way in which no single institution, nor even single side of the debate, can do on its own.

THE NEW PLAN FOR IMMIGRATION: MIND YOUR LANGUAGE

The Government's New Plan for Immigration¹ has touched a nerve and engendered deep emotions on all sides. In large part that is its intention. The Government has cemented the course it had clearly begun to map out last year; tougher on asylum seekers coming to the UK, while sounding more accommodating and supportive to refugees being resettled to the UK through resettlement schemes.²

While the New Plan does offer potential for those looking to open up more, and improved, safe and legal routes for refugees to come to the UK – as addressed in the SMF's recent 'Stuck in the middle' report³ – the New Plan also creates significant challenges for asylum seekers making their own way to the UK, and for the community of organisations in the UK who support these arrivals. For the purpose of this paper, this community is referred to as the 'refugee rights sector'.

The core innovation, and perhaps most controversial element, of the New Plan is the Government's decision to aggressively test the legal boundaries of Article 31 of the United Nations Refugee Convention.

This Article states that:

“The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened ... enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.”⁴

The Government’s intention is that the ‘penalty’ for asylum seekers who have entered the UK illegally, and who cannot satisfy the requirements of Article 31, will be to be denied refugee status in the UK, instead being given a lesser, temporary protection status, even if their situation would otherwise fall within the refugee definition.

For a plan motivated in large by the Government’s ire towards “repeated legal challenges” to its immigration control approach,⁵ the New Plan’s proposals invite significant legal challenges to the Government’s immigration control approach. If implemented, the Government’s proposals regarding asylum seekers are likely to come under legal attack on the basis of a number of different provisions of the Refugee Convention.⁶

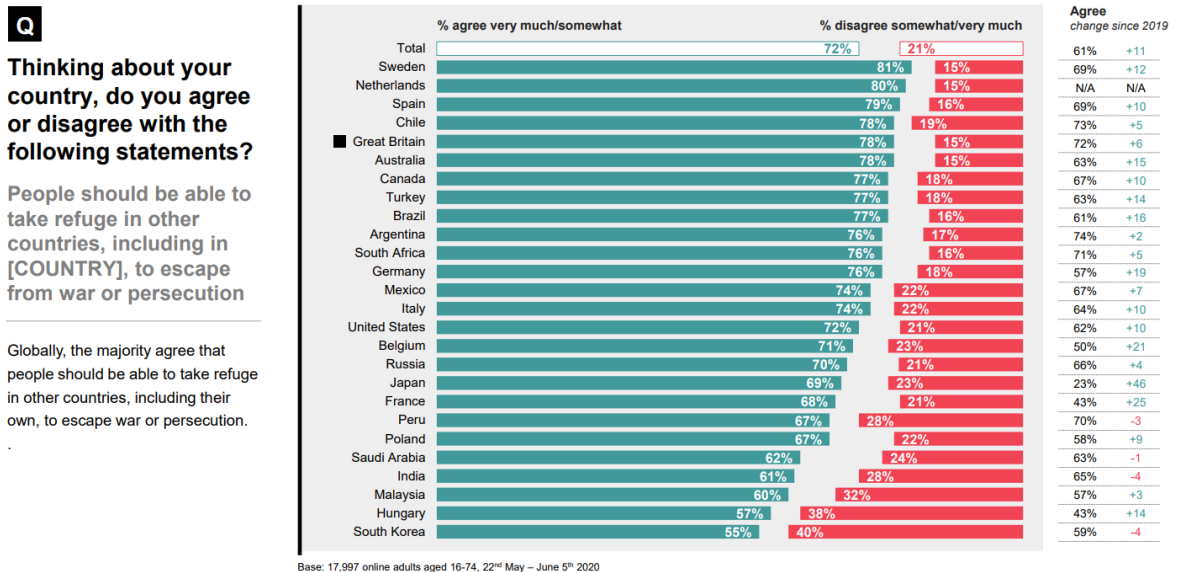
A key legal focus though will be the fight that the Government has picked over Article 31 itself. In particular, the question of the nature and extent of the ‘penalties’ that can be imposed under that Article; can such penalties include a refusal to acknowledge refugee status in the way that the Government proposes? And, even if they can, in what circumstances can those penalties arise? What does it mean to come to the UK ‘directly’ from a place where life or freedom was threatened? What does it mean for an asylum seeker to ‘present themselves without delay’? And what exactly constitutes ‘good cause for their illegal entry or presence’?

Regardless of the legal minutiae, the Government also has in mind public opinion, and the online consultation process of the New Plan is specifically designed so the public can easily provide their feedback on the elements which the Government wants them to focus on. The New Plan confirms a remarkable shift in emphasis in the UK’s immigration debate, away from legal economic migration and towards issues of asylum, enforcement and removal.

And in this regard the Government presumably considers it does no harm to have the asylum system debate focused on the fact that many asylum seekers may access the UK indirectly and illegally (even if that is because they have little alternative) and may not always claim asylum immediately on arrival.

On the opposite side, that the refugee rights sector seems to accord little importance to public opinion might be considered its Achilles heel. It is not that broad swathes of the British public are unsympathetic to the plight of refugees; far from it. In fact, Britain stands near the top of the charts of those countries whose publics support taking in those fleeing from war and persecution.

Figure 1: Global attitudes to those fleeing war

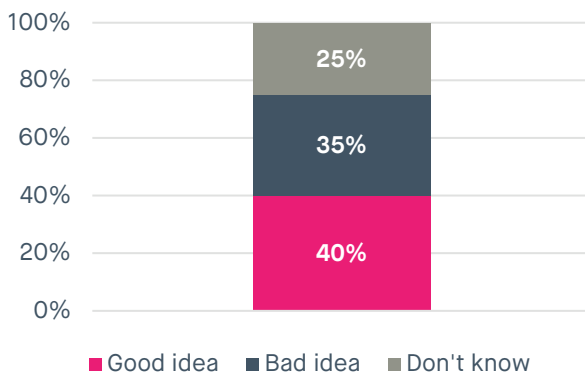


Source: Ipsos MORI ⁷

But this is often as far as the refugee rights sector goes. There is little, if any, acknowledgement, or even discussion, in the sector that a number of articles of faith of the refugee rights sector are simply not in step with British public opinion. As a result, little action is taken by the sector to engage with, and address, this fundamental issue.

A recent, extreme, example of this would be the proposal for the offshore processing of asylum seekers to the UK, an idea that never quite seems to go away and re-emerges once more, although still very much in purely conceptual form, in the New Plan. The idea, apparently considered by the Home Office last year, of sending UK asylum seekers all the way to Ascension Island to be processed was greeted by the refugee rights sector with a chorus of horror and derision.⁸ But the public did not necessarily share that view.

Figure 2: It has been reported that the UK government were considering building a new asylum processing centre (a place where asylum seekers stay while claims are processed) on Ascension Island, a UK territory around 5,000 miles from the UK. Do you think this is a good or bad idea?

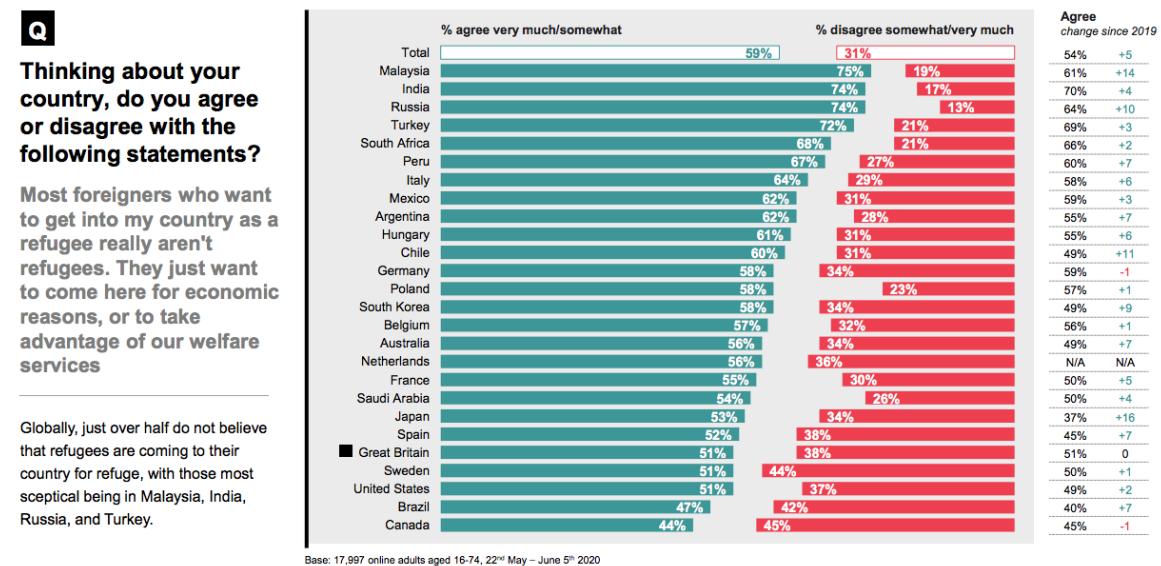


Source: YouGov⁹

The public’s reaction in this respect should not be so surprising though. Being broadly supportive of 'genuine refugees', but not of 'bogus asylum seekers', it is hardly surprising that a scheme promising to magically separate the two groups in a land far far away would seem a good idea to a number of people, who could not be expected to appreciate the various problems with such a plan.

This comes on to a much more fundamental problem for the refugee rights sector, a perception which has lingered for decades now but which the sector continues to do very little to address, or often even engage with. This is the perception that most people coming to the UK claiming to be refugees are not in fact refugees, but instead claiming asylum as a way of gaining access which they could not otherwise do. While the British public may be more believing of asylum claimants than the publics of most other countries, still the majority of the British public seem to be, overall, disbelieving of the fact that most asylum seekers are in fact refugees.

Figure 3: Global attitudes to motivations of asylum seekers



Source: Ipsos MORI ¹⁰

This is a problem for the refugee rights sector, but one that is compounded by the fact that advocates for the sector generally ignore it. As set out in IMIX’s ‘How to talk about the government’s new plans for the asylum system’, the sector’s strategy is to focus relentlessly on telling moving personal stories about asylum seekers who are refugees.¹¹ This may seem a sensible approach. But if the majority view of the public is to welcome refugees but to be sceptical about whether most asylum seekers really are refugees, then telling stories about those who are refugees runs the risk of not moving the needle at all. You can read a moving story about an asylum seeker who has fled for their life and still hold the view that the majority of asylum seekers are not fleeing for their life.

Perhaps most importantly though, because the refugee rights sector will not meaningfully engage with the public’s scepticism of asylum seekers, this strategy completely cedes the ground in this area for the Government to capitalise on. And in the New Plan the Government seeks to take full advantage. How the Government

articulates and frames the New Plan, and the coordinated messaging it uses, is specifically designed play on this scepticism and to undermine any sympathy the British public may feel for asylum seekers.

One strand of this is to laud refugees who are resettled into the UK utilising safe and legal routes, juxtaposing them with asylum seekers illegally entering the UK. Another strand is to stress the fact that asylum seekers are often coming to the UK through another ‘safe country – like France’, so questioning why they need to make the journey to the UK at all in order to find safety. Another is to imply that asylum seekers are being exploited by nefarious and dangerous people smugglers to illegally enter the UK. And last, but not least, indeed first on the seven-point tick box plan set out on the Government’s ‘New Plan for Immigration’ poster is:

‘Speed up removal of failed asylum seekers and dangerous foreign criminals.’

Rhetoric which twins ‘failed asylum seekers’ with ‘dangerous foreign criminals’ is designed not just to undermine public sympathy for asylum seekers, but to engender a deeper suspicion of them. A narrative which binds asylum and criminality together is then echoed out into the world as the media reports on this issue.¹²

REMOVAL OF FAILED ASYLUM SEEKERS: A RESIDUAL OF THE PROBLEM, OR THE CORE OF THE PROBLEM?

When it comes to removals/deportations of migrants from the UK, there are different shades of opinion within the refugee rights sector as to the extent to which every single such removal/deportation should be resisted.¹³ Some think that each and every one should be resisted. Whereas others accept that the sector’s interests may not in fact be best served if there is no consequence when it is finally determined that an asylum seeker has no grounds on which to remain in the UK, and that some level of removals of failed asylum seekers is required for being seen to maintain the integrity of the asylum system and for building and sustaining public consent to, and acceptance of, that system.¹⁴ Even the latter group however does not for the most part tend to see the difficulties of removing failed asylum seekers as in any sense a problem with which the refugee rights sector should be concerned.

One reason for this is that returning failed asylum seekers is the Home Office’s job, so if the Home Office is making a bad job of that then the refugee rights sector sees that as the Home Office’s problem.¹⁵ Another reason may be an assumption that the current rate of success of asylum claimants – a majority of asylum seekers currently ultimately prevail in their claim (although the exact percentage is hard to pinpoint due to the way the Home Office generates the figures and the time lag of appeals being adjudicated and recorded in the system) and the percentage success rate has generally been rising over time¹⁶ – is sufficient to give legitimacy to the asylum system. And that what happens, or more particularly often does not happen, to failed asylum seekers is not then seen as undermining public faith and trust in that system.

In this way of thinking, the problem of removing failed asylum seekers is:

- A residual of the core problem; the core problem is to determine as quickly and as fairly as possible which asylum seekers who have arrived in the UK are refugees.
- A relatively small problem; as most asylum seekers arriving in the UK are currently adjudicated by the UK to be refugees.
- A thankless problem; which can be left to the Home Office, and in which the refugee rights sector is satisfied to play at best an ambivalent role, at worst an unhelpful one, with no real acknowledgement of any potential adverse consequences of this for refugees and the refugee rights sector.

The proposals in the New Plan for Immigration demonstrate why this thinking is wrong. Failed asylum seekers are the core of the problem. And for the refugee rights sector, not just for the Home Office.

A PROBLEM SHARED: A PROBLEM HALVED OR A PROBLEM DOUBLED?

As the SMF has repeatedly pointed out – most recently in our ‘Fixing Britain’s broken asylum system’ briefing¹⁷ – the figures on the extent to which irregular migrants in the UK, including failed asylum seekers, are actually removed from the country, do not make comfortable reading for anyone who thinks that such removals should form a meaningful part of immigration control.

Prior to the announcement of the New Plan, discussions of this problem had been almost entirely confined to the Westminster bubble; in think-tank reports, border inspection reports, parliamentary committees, national audit reports. In response to these the Government had largely remained silent, unwilling to talk about this problem, presumably because of the need to pretend to have immigration controls that work, and in particular the difficulty of admitting otherwise when it has been in power for over a decade.

But with the New Plan we see the dawn of a very different approach. The Government now seems suddenly willing to talk openly and publicly share its problems in this area. This includes talking about foreign national offenders, many of whom have committed serious offences, being released into the community in the UK rather than being returned back to their country, and those who are in immigration detention ready to be removed from the UK instead being released, and, in terms of those asylum seekers whose claims to refugee status have not been accepted:

“Around 42,000 failed asylum seekers are still living in the UK despite having their asylum claim refused ... [and] successful removals of those with no right to remain in the UK are at the lowest level since 2004.”¹⁸

What might explain this shift of approach? One response might be that, regardless of whatever lid the Government might try to put on it, the feeling that its grip on those in the UK who do not have permission to be here under the immigration rules is far from a vice-like one is in any event starting to permeate the public’s consciousness. Witness the double-page spread September 2020 in the Daily Mail, following a Public

Accounts Committee report scathing of the Home Office's performance in this area, under the headline 'Q: How many illegal immigrants in UK? A: No idea, admit officials! Home Office hasn't even checked since 2005'.¹⁹ Cognisant of the lessons of the last ten years of British politics, and the risks that can arise if it is seen to cede the political driving seat on controlling immigration to another political party, the Government may well have concluded it needs to be out front, leading on this issue, rather than following meekly behind the Public Accounts Committee and the Daily Mail.

Another response might be that the Government has calculated that it is worth the risk of flagging this problem now, because at last it has ready the solution to the problem. After all the Government cannot claim credit for solving a problem that most voters are unaware of. In this line of thinking, the Daily Mail editorial from September 2020 might not then be a spanner in the works at all, but rather all part of the plan to begin to inform the public about something very important that the Government is about to fix.

There may indeed be some in the Government who believe that a material improvement can be made, and credit gained, by making inroads into the tens of thousands of failed asylum seekers number. It is just possible that they may be right, as the Government focuses on the significant backlog of asylum claims, and if it seeks to prioritise returning failed asylum seekers over other types of removal.

But the chances cannot be rated any better than 'just possible'. Because at its heart, regardless of what improvements can be made to the efficiencies of the system on the ground in the UK, the ongoing difficulties in returning failed asylum seekers primarily reflects the huge practical obstacles to forcibly doing so; of locating where many failed asylum seekers now even are in the UK, what countries they actually come from and whether it is safe to return them there, and, even if all that has been achieved, arranging documentation for them to return to a country which may well not want them back or even admit to any connection with them. In itself the New Plan has limited ability to overcome these obstacles.²⁰ Which is one of the reasons the New Plan is also concerned with the possibility of removing people to alternative safe third countries. But convincing such countries to take them is no easier.²¹

That what has changed with the announcement of the New Plan is the Government's openness to discussing the problem of return, rather than any real step-change in the Government's material ability to effect return, may seem a cause for some relief in some parts of the refugee rights sector. But it should not be. For a heightened focus on the difficulty of returning failed asylum seekers as the core of the problem is unlikely to rally the British public to the cause of asylum seekers.

It is likely it is this calculation that is now driving the Government's decision to so publicly declare and share its 'returns' problem now. If failed asylum seekers cannot be reliably returned, and the Government would like the public to take away the message that asylum seekers must therefore be more forcefully dissuaded from coming to the UK in the first place, telling the public that tens of thousands of failed asylum seekers continue to remain in the country after their claims are rejected, and linking them in the public's mind with dangerous foreign criminals, then looks to fit the bill perfectly.

When viewed in this light, the issue of the widespread and continual failure to return large numbers of failed asylum seekers no longer looks like something the refugee rights sector can simply dismiss as solely someone else's problem. In truth though it never was.

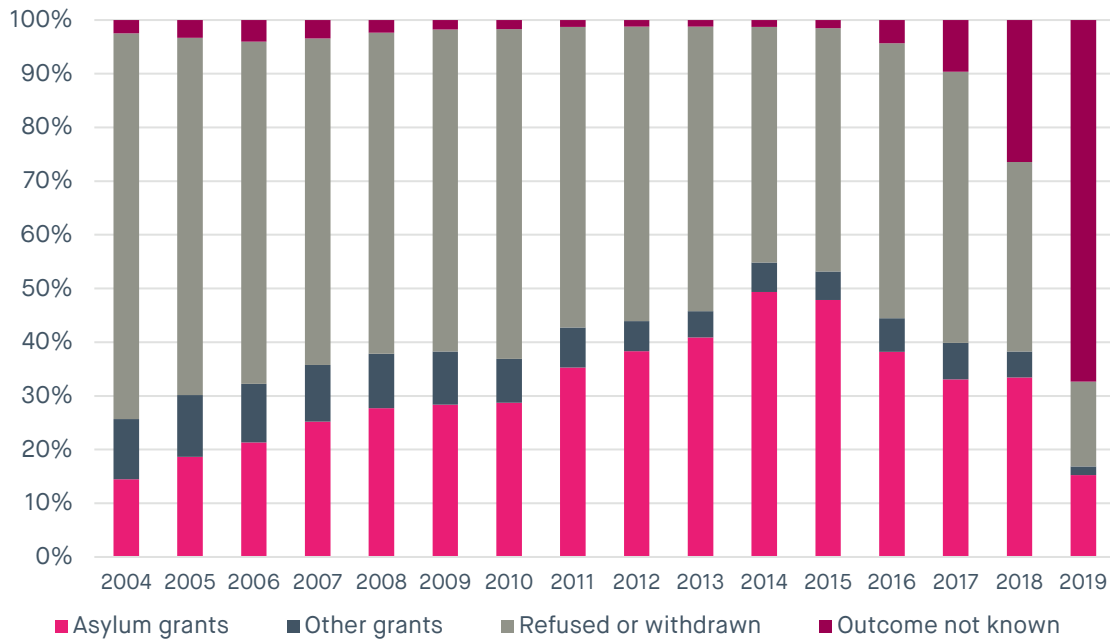
FAILED ASYLUM SEEKERS AND GENUINE REFUGEES

Looking at the two poles of the debate about the asylum system, one pole would see failed asylum seekers and genuine refugees as both worthy of support. Indeed, they could be one and the same person; a failed asylum seeker after all can also be a genuine refugee who has simply been unable to convince the Home Office and the Immigration Tribunal of that fact. And, in any event, regardless of their exact categorisation for legal purposes, this pole of the debate may consider failed asylum seekers to be no less likely than refugees to be escaping desperate times and circumstances, even if those do not meet the exact parameters to be able to successfully claim protection under the UN Refugee Convention.

At the other pole would be those who see in-country asylum claims, and the associated human rights claims which can be made around them, as being the last or only resort of people who have enough money to gain access to the UK in some form – whether that is paying for a route to legally come here for a period, such as a work or study visa, or paying for assistance to enter the UK illegally – but have no other options to remain in the UK legally. This view might even allege, as the current Home Secretary has done, that such asylum claimants are unfairly seeking to queue jump ahead of those genuine refugees awaiting to be resettled, “disregarding the most vulnerable, elbowing women and children in need to the side, trampling over the weak”.²²

Each pole may represent the truth of the situation in different individual cases. And, as asylum claims are assessed on an individual basis, and each asylum claim is therefore based on a different individual story, the asylum system process needs to unpick each story, and make an individual determination against the legal threshold and credibility standards required to be granted refugee status under national and international law.²³

Any argument that the public should feel comfortable with asylum seekers in the UK on the basis that the majority of asylum claims in the UK are currently ultimately upheld is clearly therefore a hostage to fortune. It is a snapshot of the situation now, not a truism. And while that fact may be true most recently, at other times it has certainly not been true.²⁴ Indeed, the norm over the last two decades has been the opposite. In the 2000s, the percentage of the final outcome of asylum claims in the UK refused or withdrawn stood resolutely in the 60-75% range.

Figure 4: Final outcomes of asylum applications (main applications only, by year of application)

Source: House of Commons Library analysis, Home Office immigration statistics.

Note: Year relates to period in which application was made. these figures exclude though those successful on further appeal to the Upper Tribunal. ²⁵

The gradual improvement trend seen over time in the success rate of asylum claims in the UK might reflect the improved workings of the system, such as the quality in Home Office decision-making, or in the way that the immigration tribunals are holding that decision-making to account, or the availability and standard of legal representation on behalf of asylum seekers. But even if it did reflect that, there are clearly factors extraneous to the workings of the system which at any one time are likely to be the most significant contributors to the asylum claim success rate in the UK; these are, who are the asylum claimants, and what are the situations in the world from which they are moving to the UK, and their reasons for doing so.

Even before the two-tiered approach of the New Plan, not all asylum claims in the UK were considered equal. Some countries, which the UK considers 'safe', already in effect have a higher bar for the claim to be considered. Most recently one 'safe' country stands out in the number of asylum claims that are being made by its citizens in the UK. That country is Albania.

Table 1: Asylum applications in 2020 from countries designated as safe

Country of origin	Asylum applicants
Albania	3,071
India	1,047
Nigeria (men)	484
Brazil	205
Ukraine	113
Ghana (men)	91
Gambia (men)	83
Sierra Leone (men)	79
South Africa	66
Kenya (men)	56
Mali (men)	38
Mauritius	32
Mongolia	25
Kosovo	15
Malawi (men)	12

Source: Refugee Council: UK Country Report. ²⁶

Note: '(men)' means the country is only viewed as being a safe country for men.

LET ME TELL YOU A STORY (OR FIVE) ABOUT ALBANIA

The New Plan for Immigration does not mention Albania. It should do. Here are five different stories one can tell about Albania in the context of the UK's asylum system.

The first story

The first story is about the data on Albanian asylum claims. While different bits of the data can be used to tell a simple story, putting it together tells a more complex story.

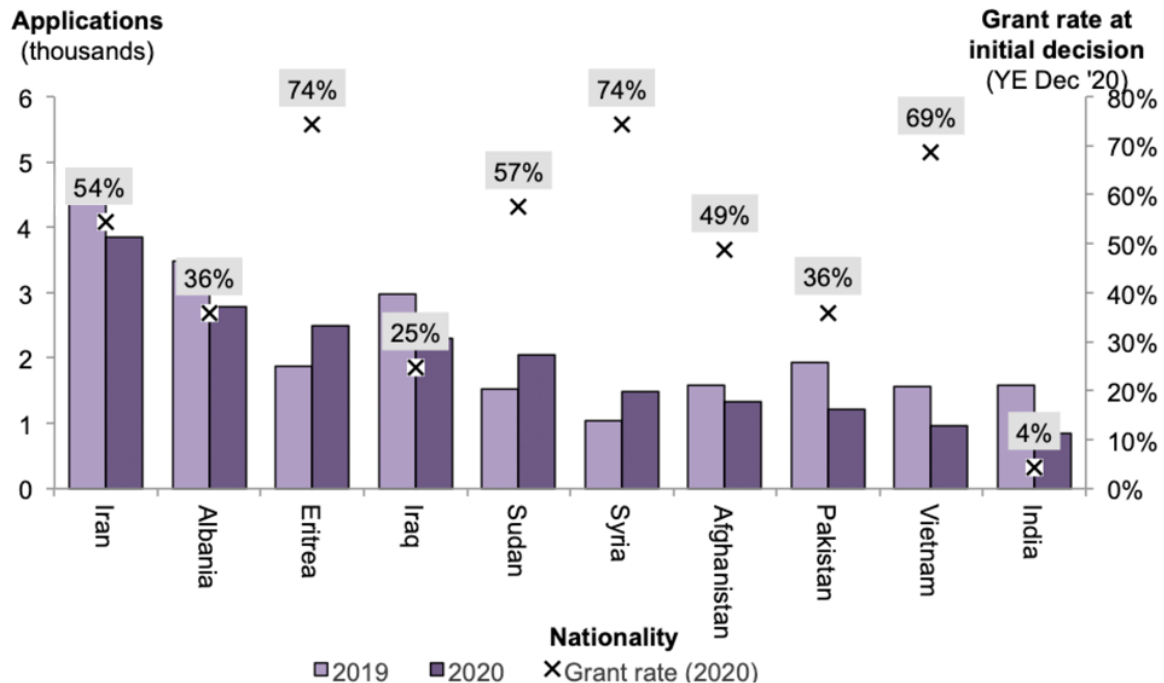
An essential element of this story is that Albania is not part of the EU. This has created both a challenge and an opportunity for Albanians seeking to access the UK. The challenge has been that this has meant that, even when the UK was part of the EU, Albanians were not able to access the UK under EU freedom of movement rights. But the opportunity has been that Albania standing outside the EU has also meant that Albanians have been able to claim asylum in the UK. This is because Albania is therefore not covered by the Aznar Protocol, an EU agreement which makes it practically very difficult for EU citizens to have their asylum claims heard in other EU states.²⁷

In 2010, Albanians made 174 asylum claims in the UK, representing less than 1% of the overall claims received by the UK. By 2019 this had risen to 3,488 claims, representing nearly 10% of the overall claims received by the UK.²⁸ Albania is currently the second biggest source of asylum claims in the UK.

The UK is not alone in having seen a significant rise in Albanian asylum claims over the past decade. So have a number of EU countries.²⁹ Nevertheless, at the EU wide level

Albanian claims currently make up a lower percentage of overall claims than in the UK – at just over 3% for 2019.³⁰

Figure 5: Top 10 nationalities claiming asylum in the UK and grant rate at initial decision (%), 2019 and 2020



Source: Home Office³¹

The above chart shows that the success rate of Albanian asylum claims at the initial decision stage is only a little over one third of claims (although this does not take into account subsequent successes on appeal). Some have suggested that this bears witness to the fact that, even taking into account the ‘climate of disbelief’ with which it is alleged the Home Office approach the consideration of asylum claims in the UK, “Albanian asylum claims have been singled out for particular hostility”.³² But this is hardly born out by the data. Indeed, the UK authorities seem to be far less disbelieving of Albanian asylum claims than their peers in the EU are. In 2019 only 7% of Albanian asylum claims were successful at first instance across the EU, with the overall number of grants of asylum to Albanians in the EU sandwiched between those of claimants from Mali and Côte d’Ivoire.³³

The second story

The second story is a short, simple, story about British public perceptions of Albania.

Before the arrival of the COVID-19 pandemic, increasing numbers of holidaymakers, including from the UK, were visiting Albania.³⁴ Certainly Albania has been promoted as an alternative travel destination. But not one that is viewed in the same bracket as Iran, Eritrea, Iraq and Sudan, the other countries in the UK’s top five asylum claimant list. In contrast, those countries are largely considered out of bounds for UK tourists.

This perception of Albania may seem inconsequential or irrelevant to the issue of how Albanian asylum seekers are considered in the UK. But it is not. Little does more to undermine the foundations of the asylum system than any perception by the public that the system is being abused. And if, when the British public think of Albania they increasingly think of somewhere to potentially visit rather than somewhere to flee from, and if, in terms of fear and danger, they are less likely to associate that with Albania itself and more likely to associate it with certain stories they have been reading about Albanian activities on British soil, this is important.

The third story

The third story is a story of these stories of Albanian activities on British soil, which have increasingly come to be associated with Albania in the minds of the British public. These are the stories of the success and growth of Albanian organised crime groups' activities in the UK.

There is not much on which The Sun and The Guardian would normally see eye to eye. But one exception would seem to be their coverage of the story of the Mafia Shqiptare, the Albanian organised crime groups who are reported to have gained control over the UK market for the sourcing, supply and distribution of cocaine. Initially achieved out of the public eye, the Instagram self-promotional antics of the street-level 'Hellbanianz' dealers and widespread reporting across the mainstream print media has meant that this story has now very much permeated the British public's consciousness.³⁵

The Mafia Shqiptare are credited with single-handedly having revolutionised the cocaine market in the UK, establishing a cooperative, vertically-integrated supply chain, allowing them to drive up the quality of the end product while at the same time significantly driving down its cost. In a legalised industry they would now be coming under scrutiny for what appears to be an increasingly monopolistic position in the UK cocaine distribution market. While London is their hub, it is now widely acknowledged that – for reasons peculiar to its own drugs economy – Liverpool is the only part of the country which the Mafia Shqiptare has not now come to dominate in terms of cocaine distribution.³⁶

The COVID-19 pandemic, while certainly a challenge for this market – the distribution of drugs is dependent on the movement of goods and people – seems only to have served to strengthen their hold, and further validate their business model.³⁷ The Mafia Shqiptare have gained a reputation for professionalism, reliability and trust, but also as people who should not be crossed. Frequently cited as key underpinnings of this reputation are the Albanian code of *besa* – “to keep the promise” – and of *kanun* – the right to take revenge in blood.³⁸ This might also explain why Albania currently ranks as the number two country in terms of foreign offenders held in British prisons.³⁹

The very same day that the Government announced the New Plan for Immigration, the All-Party Parliamentary Group on Migration held a 'Windrush Lessons Learned Review: One Year On' event to discuss the Home Office's progress in implementing changes following Wendy Williams 'Windrush Lessons Learned Review' report.⁴⁰ One of the issues identified in that report was that 'silo working' within the Home Office had potentially contributed to the failure to avert the terrible outcomes for those affected

by the Windrush scandal. At the APPG event, Wendy Williams reiterated this finding in her report, and Matthew Rycroft, the Permanent Secretary at the Home Office, responded by referring to the structural changes being effected within the Home Office to break down these silos.

In the Windrush context, breaking down the silos within the Home Office is viewed by the migrant rights sector as in the best interests of migrants in the UK. But in the context of this third story one can see that breaking down silos to achieve a more joined-up Home Office – with those responsible for immigration control, drugs policy, policing and combatting crime all working together in a more coordinated fashion – might have quite a different outcome.

The fourth story

The fourth story is a story about the fear and danger experienced by refugees escaping Albania. Just because some British people may be considering a holiday in Albania, and others may be reading about the activities of Albanian organised crime groups on the UK's streets, does not mean that Albania does not create refugees in need of protection.

Indeed, the particular aspects of Albanian society that have led Albanian organised crime groups to be feared are the same ones which often generate asylum claims from Albania. A number of these claims come from those fleeing the frequent tit-for-tat murders which are the result of ongoing blood feuds.⁴¹

Indeed:

“The country has a long history of clan violence, blood feuds and revenge killings, as well as political instability. Domestic abuse, so-called ‘honour-based’ violence, gender-based violence and child-specific persecution appear in many Albanian asylum claims.”⁴²

In 2020, asylum seekers from Albania had a 50% success rate in challenging Home Office refusals on appeal, the third highest success rate of any country.⁴³ This suggests that once Albanian asylum seeker stories are delved into, and assessed judicially in more detail in the UK's tribunal system, a number of those stories are accepted as truthful.

The fifth story

The fifth story tries to pull these different stories together into a coherent whole. Unfortunately for both the current Home Secretary and the refugee rights sector, both of which would prefer their own version of a far simpler story, the result is a rather complicated, messy one. While a country whose population is not even one third of London's, Albania's story is akin to a sprawling Hollywood epic with multiple interweaving stories arriving at no neat ending. And when you re-watch it to try and work out what just happened, this merely serves to highlight the tangents and hanging plotlines that were never resolved.

The starting point of the story though at least seems clear. This is that a very high proportion of Albania's population would seemingly rather be somewhere else. It is one

of only a handful of countries across the world from which at least half of the adult population say they would like to move away from.

Table 2: Countries where at least half of adults would like to migrate

Country of origin	Asylum applicants
Sierra Leone	71%
Liberia	66%
Haiti	63%
Albania	60%
El Salvador	52%
Congo (Kinshasa)	50%
Ghana	49%
Dominican Republic	49%
Nigeria	48%
Armenia	47%
Honduras	47%
Syria	46%
Kosovo	46%

Source: Gallup World Poll⁴⁴

But it is that clarity – the strength and breadth of the desire of so many of its inhabitants to leave – which is the very source of the complexity and confusion that follows. For, in order to leave, and seek to build a life somewhere else, Albanians who do so follow a number of parallel strategies that often do not fit neatly with the legal categories and policy perspectives which the UK applies to immigration.

Yes, there are Albanians claiming asylum in the UK who are fleeing from blood feuds. And almost certainly there are Albanians arriving in the UK who are already involved in organised crime and who intend to continue that line of endeavour after arrival. But the majority of Albanians coming to the UK do not fit neatly into either of these stories.

As one Albanian economist put it: “The high number of asylum requests have to do with the lack of trust the Albanian people have in the future, the political class, and the economy.”⁴⁵ Set against which, even the lowest rungs of the UK’s economic ladder can look very enticing. Most Albanians learn English in school⁴⁶, and, as one young Albanian put it, who had failed in his asylum claim in Germany, and then moved on to the Netherlands (from where he was now being deported) in order (unsuccessfully) to gain access to the UK where he knew many people who had gone before him:

“some of my friends are working in the construction sector, others are cleaning cars. Easy work and it pays well. In Albania there is no work. And if you find a job, it will pay you nothing. This is a country of corruption, you have to pay for everything. Everyone wants to leave Albania.”⁴⁷

In this context, while asylum is claimed by some Albanians because they are refugees, it is viewed by others as a strategy to seek to gain a foothold in the UK, alongside other strategies such as marrying a British or EU citizen.⁴⁸ So blood feuds are a reason for

some Albanians to leave, but so are deprivation, unemployment, discrimination and poor access to healthcare, social benefits and education. The blurred lines of ‘economic migration’ and refugee status are nowhere more blurred than in Albania’s case.⁴⁹

As a result, for some Albanians the very act of claiming asylum in the UK or elsewhere in the EU is itself viewed as success, regardless of the outcome of their claim.

“Although a high number of Albanians requested asylum, most of them seemed to realise that the chances of actually receiving asylum were low. The lack of jobs in Albania and the long bureaucratic process necessary to apply for asylum in European countries allowed Albanians to receive financial support meant for refugees. A majority of the Albanian asylum seekers used this method to relieve their households from the cost of living in Albania. It’s the economic benefits that motivate asylum seekers to stretch out the return process to Albania as long as possible.”⁵⁰

But when it comes to asylum, just to further complicate matters, in Albania’s case there is an additional plot twist. Which is that it is now largely accepted that a number of Albanians who successfully claimed asylum in the UK did so not by claiming they were refugees from Albania, but rather by claiming that they were refugees from neighbouring Kosovo, from where the UK received tens of thousands of refugees during the Kosovan war which followed the break up of the Former Yugoslav Republic.

As one Kosovan refugee who was given permission to remain in the UK put it:

“It’s been an open secret for years that thousands of Albanians were getting refugee status here by saying they were from Kosovo. It used to be the fasttrack route into Britain and lots of people took it. There was a network that included traffickers and intermediaries. People were told to say they were from Kosovo – it never failed.”⁵¹

Indeed, one of the reasons that the numbers of Albanian asylum claims (as Albanians) may have risen so significantly in the UK in the past decade is that Albanians are all now claiming asylum as Albanians, rather than some claiming instead to be Kosovan.

Another factor in the increase in Albanian arrivals in the UK though has also been the EU’s liberalisation, from 2011, of the rules for Albanian entry to the Schengen area of the EU. This opened up the Schengen area for Albanians to enter and travel through without a visa. And provided Albanians with easier access to the main jumping off points to seek entry to the UK (which even while it was in the EU remained outside of the Schengen area), in particular the ports of France, Spain, Belgium and the Netherlands. It also increased some Albanians’ ability to obtain EU zone – particularly Italian or Greek – ID cards which they could then use to try to obtain entry to the UK.⁵²

So when the current Home Secretary speaks in the Foreword to the New Plan for Immigration of the aim being “an asylum system that ... is not openly gamed by economic migrants or exploited by people smugglers”⁵³, it may be possible that she had at the forefront of her mind some of these aspects of the UK’s recent experience of Albanian migration.

For those Albanians who do gain access to the UK, but fail in their asylum claim, they “frequently disappear into a half-life on the margins”⁵⁴, making it hard for the UK authorities to resolve their irregular immigration status. And without the ability to lawfully work, and with no recourse to public funds in the UK, is it possible, or even probable, that some of his cohort might be attracted to engage in endeavours that may stand to one side of the legal economy, not necessarily because of any predisposition to do so, but because their circumstances give them little other option if they wish to live a life in the UK?

That many Albanians cannot easily get legal access to the UK might be thought an optimal situation for the Albanian organised crime groups. It makes people-trafficking to the UK a particularly lucrative strategy for those who can both organise it and benefit from it.⁵⁵ Albanians currently make up the largest number of any foreign nationality in the UK being referred to the National Referral Mechanism for those suspected of having been victims of such activity.⁵⁶ But, trafficked or not, any Albanian living in the UK without the legal status to remain here – including failed asylum seekers – becomes ripe for exploitation, or, at the very least, potentially available to be drawn into any activity, whether or not legal, which may remunerate them and provide them with the hope of making a life in the UK.

HOW DO THESE STORIES END?

The challenges of the Albanian situation are at one and the same time the reason that sensible reform of the asylum system is clearly needed, but also an indication of how fiendishly difficult such reform actually is, and a significant hurdle to actually achieving any such reform.

The reality of the asylum debate in the UK today is such that the side of that debate on which one already sits will almost certainly determine what weight and perspective one gives to these different stories about Albania, rather than the other way round. And, as when it comes to Albania there is a story to suit every shade of opinion, one can simply cherry pick one’s own particular favoured story, with which one feels most comfortable, and consign the other stories to background noise. Every shade of opinion on the asylum issue thus finds its own corroborative story in Albania, and can conveniently ignore the other stories.

Thus the Home Office can feel comfortable with its position under the New Plan; that – regardless of the ‘queue’ rhetoric, as there is no queue to wait in for Albanian refugees because there is no resettlement option on offer to them from the UK – unless Albanians can enter the UK legally – and the Home Office will do whatever it can to make sure they cannot – Albanian refugees must take themselves to another country other than the UK if they want the protection of refugee status. Meanwhile on the other side, the refugee rights sector can feel comfortable with continuing to bemoan the ‘culture of disbelief’ around Albanian asylum claims, without even the slightest hint of acknowledgement why such a culture might exist.⁵⁷ Both of these positions are hugely damaging to Albanian refugees, indeed to all refugees.

Just because some people who claim asylum in the UK are not refugees does not mean that refugees who come to the UK should be denied proper protection in the UK. And

the British love of queuing only works because the British are blessed with queues governed by transparent rules, that actually move, and that end up somewhere people want to go. Telling refugees that they should wait in line when there is no line, or there is no transparency on how to join the line, or how the line will be processed, or whether it will ever be processed at all, really is just political posturing.

But, on the other side, large parts of the refugee rights sector need to stop acting as though all asylum seekers should be treated as refugees, even when they are not, and thinking that returning failed asylum seekers is entirely someone else's problem. It is exactly this approach that undermines public trust in, and consent to, the asylum system, and ultimately is likely only to increase public support for the sort of more restrictive proposals on asylum we now see in the New Plan. And in ceding control of the debate to more restrictionist elements in the Government it is more likely to end up damaging rather than protecting the best interests of refugees

These differences between the two sides are both fuelled, and accentuated, by the legalistic approach, adversarial nature and confrontational design of the UK asylum system. For all the Home Office's apparent ire towards the bringing of legal challenges allegedly to thwart the levers of immigration control, in some respects some in the Home Office seem to regard a very legalistic system as in many ways best suiting their purposes:

"More than one interviewee told us that with certain Home Office decisions, politicians would find it more politically palatable to be forced to abandon a policy or action by a court than to abandon it themselves."⁵⁸

The refugee rights sector has in turn understandably fully engaged on the adversarial legal level. As a result, spaces where productive, common ground can be identified and built on through cooperation and collaboration have largely been closed down.

But if, instead, the opposing sides of the debate could be open to at least acknowledging the 'truth' in the other side's story, rather than relentlessly denigrating and denying it, dialogue and progress might be possible. It might then be possible for both sides to recognise that they have a common, not conflicting, interest, in addressing certain core problems. And that one of those core problems is what to do about failed asylum seekers who have exhausted their potential rights to remain in the UK.

This particular problem is such a difficult problem, for both sides, that it is easy to see why both sides might shy away from it rather than coming together over it. But it is hard to see how either side – and that includes the refugee rights sector – benefits from the failure to address it. That does not mean that the sector has to support how the Home Office wishes to deal with this problem. Far from it. But if the New Plan contains any message for the sector it is surely that it must engage in good faith on this thorny issue. For without addressing the issue of what to do about failed asylum seekers, and trying to find solutions to this which can be acceptable to both sides, the cause of an asylum system in the UK which politicians, public and refugee rights sector can all stand behind seems unachievable, instead forever destined to be mired in

conflicting motives, irreconcilable perspectives and seemingly deliberate misunderstandings.

Progress in this area would require the Home Office and the refugee rights sector to come together at a time when they seem to have been drifting further apart. But even in the most recent, fractured of times there have been pockets of open and innovative collaboration between representatives of both sides. One important, and high profile, example has been the development of the Community Sponsorship Scheme for refugees being resettled to the UK from the Syrian conflict. Another, much less high profile, example has been the ‘Action Access’ Alternatives to Detention Community Engagement Pilot, which the Home Office has recently collaborated on with the Action Foundation, a charity which provides support to disadvantaged refugees, asylum seekers and other migrants across Tyne and Wear in the north of England.

*“While [the pilot] is government-initiated and funded, it uses a voluntary community-based case management approach and is run by a non-governmental organisation. Furthermore, civil society was involved in the initial design and development of the pilot and has an ongoing role in decision making through a reference group comprised of key civil society stakeholders. Action Access therefore builds on previous positive practice, but also presents new opportunities for learning and for collaboration between government and civil society.”*⁵⁹

The Alternatives to Detention pilot is directly relevant to the issue of trust in the asylum system, for it is a project aiming to support fifty female asylum seekers to live in the community who would otherwise have been kept in immigration detention. Even though this pilot has an aim which the refugee rights sector would support – asylum seekers being allowed to live in the community rather than being kept in detention – relatively few organisations in the sector came forward though who were prepared to work with the Home Office in testing this approach, perhaps because of fear for their reputation in being seen to partner with the Home Office even on a pilot of this sort.

If this is the case for piloting alternatives to detention, one might ask how can any progress reasonably be expected on the thornier issue of returns of failed asylum seekers? But rather than being an unrealistic pipe dream, as our recent SMF report on assisted voluntary return (AVR)⁶⁰ pointed out, not only is collaborative progress possible on this issue, it in fact happened not so long ago.

From 2011 to 2015, the AVR programme in the UK was a site of cooperation and collaboration between the Home Office and the refugee rights sector, when Refugee Action, one of the leading organisations in the sector, was given a grant from the Home Office to run the UK’s AVR programme. From the Home Office’s perspective, the rationale was that the involvement of Refugee Action would encourage more people who had unsuccessfully claimed asylum to engage with the programme, and help to counter the distrust and suspicion of the programme that was considered to be potentially impacting the numbers willing to come forward to even discuss the voluntary return option.

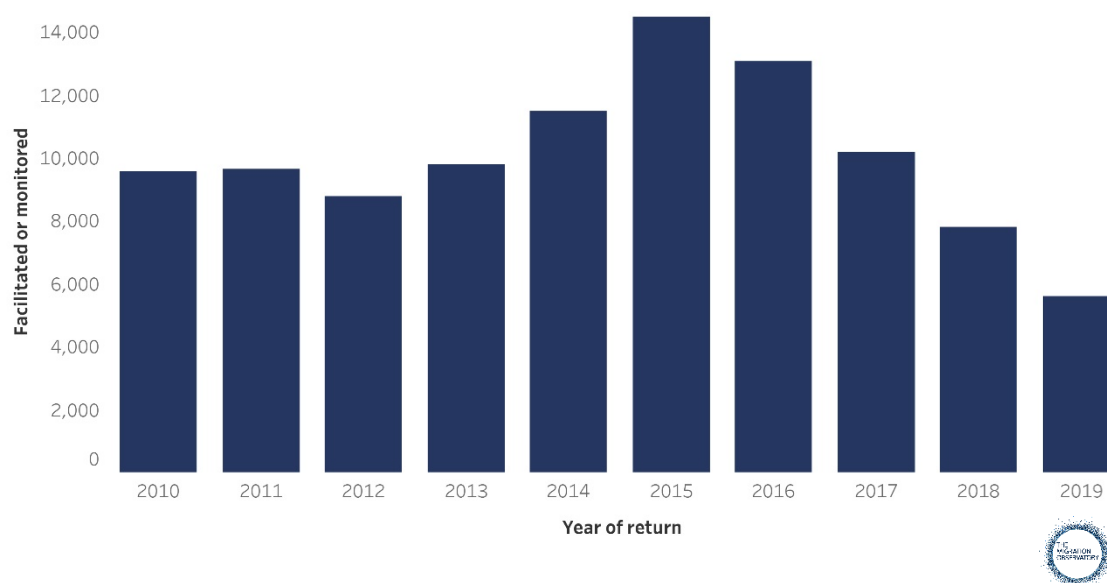
Running alongside their core refugee support and advocacy services, from Refugee Action’s perspective the ‘Choices’ programme (as Refugee Action branded the AVR

programme) meant that failed asylum seekers could have greater trust that they were getting reliable information, impartially presented, that any conversation was ‘off-the-record’, and that they could receive advice to understand what incentives and support were available for return, and make a fully informed and considered assessment of the voluntary return option, before having to commit to it and becoming known to the Home Office. This approach combined building trust, practical guidance and setting realistic expectations.⁶¹

Having Refugee Action involved also helped to get other organisations in the sector more comfortable with, and involved in, the AVR programme. But not all were willing to do so. Some were concerned that this could undermine their ability to critique and challenge Government policy on asylum. But for Refugee Action the evidence suggests the opposite was the case; that their key position in the AVR programme increased their standing in the eyes of the Government, while providing an opportunity for them to influence adjustments to the AVR programme through behind-the-scenes advocacy. And at the same time the on-the-ground experience, data and evidence which Refugee Action acquired through the services they delivered under the AVR programme actually informed their advocacy.⁶²

As a result numbers of assisted returns through the AVR programme in this period followed an upward trend. Whereas since the Home Office has taken back day-to-day control of the AVR programme, numbers of these returns have fallen steeply.

Figure 6: Facilitated or monitored voluntary returns from the UK, 2010-2019



Source: *The Migration Observatory*⁶³

Notes: Facilitated or monitored returns are given by the sum of assisted returns and controlled returns in the Home Office datasets.

This is hardly surprising. Any involvement of the refugee rights sector is now kept at arms' length, and the Home Office has run the AVR programme, rather half-heartedly and ultimately self-defeatingly, explicitly as an arm of immigration enforcement, undermining any ability to build trust with failed asylum seekers and the sector that represents them.

Nothing could more eloquently speak to the benefits of a more effective AVR programme co-owned by the Home Office and the refugee rights sector, which the UK used to have, when compared to a less effective assisted returns framework run as an arm of immigration enforcement by the Home Office, which the UK now has. This is why our SMF AVR report argued for a reconsidered, reconstituted and rebooted AVR programme, re-engaging with the sector to leverage the formidable array of practical knowledge and experience the UK has built up in this area to achieve a much more energised, expanded and effective outcome, one that could achieve increased returns, but also improved welfare of those returning through the programme, and increased public confidence in the outcomes.

Given how much many people seem to want to leave Albania, it would be perfectly legitimate to question whether material numbers of those in the UK from Albania who for whatever reason – failed asylum claim or otherwise – do not have lawful status to remain in the UK, are ever going to be prepared to return to Albania through a voluntary return programme, no matter how much assistance and incentive is provided for returning. Certainly, AVR programmes need to be accompanied by a healthy dose of realism. But, as our SMF report on AVR pointed out, it is a mistake to think that those irregularly in the UK necessarily plan or desire to stay in the UK for ever, regardless of where they are from; some at least may be very much looking for the right moment and opportunity to return, no matter how desperate they may have been to leave and come here in the first place.

Our AVR report also pointed out though that the very existence of AVR programmes run cooperatively and collaboratively between the Government and the refugee rights sector can have other fundamental benefits.

One is the significant value in the evidence that AVR programmes can gather about migration choices, decisions and patterns. Other immigration control strategies seek to exercise immigration control without seeking any understanding of how the migrant's motivations and experience may be driving and influencing their migration decisions. This ultimately undermines effective immigration control; it is harder to control something you do not fully understand. Whereas at the core of a well-designed, collaboratively run AVR programme sits the acquisition of migration information and knowledge from the ground up that can aid the understanding of migration in a way that could inform the development of much more effective and responsive immigration management and control strategies, over which both sides could potentially find more productive common ground.

Another benefit lies in the very fact of what is required when such programmes are run in a way that, as with the AVR programme from 2011-2015, requires both sides to work together. This can be a source of considerable discomfort and tension. But in taking both the Home Office and the refugee rights sector out of their comfort zones and into a position where they had to collaborate and cooperate with, and also mobilise, others in order to deliver the programme, a programme designed in this way can provide powerful opportunities that would not otherwise arise, and has the potential to better address one of the most complex challenges of the asylum system in a way in which no single institution, nor even single side of the debate, can do on its own.

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